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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KEVIN RISTO, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

SCREEN ACTORS GUILD-
AMERICAN FEDERATION OF
TELEVISION AND RADIO
ARTISTS, a Delaware corporation; et
al.

Defendants.

Case No. 2:18-cv-07241-CAS-PLA

Class Action

**DECLARATION OF JULIE
SANDELL IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

DECLARATION OF JULIE SANDELL

I, Julie Sandell, declare as follows:

1. Since September 2009, I have served as an employee at the AFM & SAG-AFTRA Intellectual Property Rights Distribution Fund (“the Fund”), most recently in my current role as Associate Director of the Fund’s Sound Recording Division. I submit this declaration in support of the Defendants’ Motion for Summary Judgment in this action. If called to testify, I could and would testify as to the following facts based on my personal knowledge and based on information compiled by Fund staff at my direction.

2. In January and February of 2021, I managed a project aimed at identifying the impact of data provided by AFM and SAG-AFTRA (together, the “Unions”) on the Fund’s allocation of royalties to non-featured performers. The results of this project affirmed my understanding of the essential role that Union data plays in allowing the Fund to accurately allocate royalties.

3. As background, the Unions routinely provide the Fund with session reports (also referred to as B-Forms by the AFM) which are documents prepared in connection with sound recording sessions that list the performers who appear on song titles, and which include identifying information regarding those performers. Session reports provided by the Unions serve an essential role in the Fund’s efforts to identify and locate non-featured performers on a given song title in order to distribute royalties in connection with that song title.¹

4. The Fund’s researchers seek out multiple sources of information to identify the non-featured performers that appear on a given song title. Aside from session reports, other sources of information include: liner notes and other information printed on album packaging; discographies available from online research; as well as individuals who are able to independently verify a performer’s

¹ Song titles that have been subject to royalty allocations by the Fund are referred to by the Fund as “Covered Recordings”.

1 appearance on a given song title. The Fund's practice is to seek out multiple
2 independent sources of information to confirm that a performer appeared on a
3 Covered Recording.

4 5. Session reports are the most reliably accurate source of information
5 available to the Fund in identifying the non-featured performers who appeared on a
6 given song title. This comparative level of accuracy is due in part to the fact that
7 these session reports are generally prepared contemporaneously (or at least close in
8 time) with the recording session at issue by individuals associated with the
9 recording session. Because these documents are prepared to facilitate payment to
10 the non-featured performers at issue, there is strong reason for accurate information
11 to be provided in the preparation of these forms.

12 6. In addition to providing the Fund with session reports, the Unions also
13 provide the Fund with performer information from their respective performer
14 databases. This data (which relates to both Union member and non-member
15 performers) includes identifying information such as the performer's last known
16 address, which may be more up-to-date than information recorded in older session
17 reports. This data is a valuable resource to the Fund in confirming the identities of
18 and locating non-featured performers who appear on song titles that are subject to
19 royalty allocations.

20 7. In January and February of 2021, I managed a project aimed at
21 identifying the role that data provided by the Unions plays in ensuring the accuracy
22 of performer royalty allocations in connection with Covered Recordings. This
23 project involved analyzing a sample of Covered Recordings for which session
24 report data had been made available by the Unions, and determining how royalties
25 would have been allocated differently if Fund researchers had *not* had access to the
26 Union session report data, but instead had relied solely on public sources of
27 information to identify the non-featured performers on these Covered Recordings.
28 The results of this exercise demonstrate that—absent the session report data

1 provided by the Unions—the Fund’s researchers would have relied on inaccurate
2 information in identifying non-featured performers on 60% of the song titles in the
3 sample.

4 8. The specifics steps taken in connection with this project are as follows:

5 a. The sampling process started by generating a list of 5,992 Covered
6 Recordings that (i) were subject to royalty distributions in 2020; and
7 (ii) had Union session reports available.

8 b. I selected a random title approximately halfway through this list, and
9 then selected the largest 50 of the next 100 sequential titles for
10 inclusion in the sample.

11 c. For clarification, the Fund’s researchers had already identified the
12 correct non-featured performers who appeared on each of these
13 Covered Recordings with the use of the Union session report
14 information prior to the start of this project. Following selection of
15 the 50 title sample, I assigned several researchers with the task of
16 trying to identify the correct non-featured performers who appeared
17 on these song titles, this time without the use of session report data
18 from the Unions.

19 d. I instructed researchers to keep notes on the sources of information
20 (other than session reports) from which they were attempting to
21 identify the non-featured performers who appear on the song titles in
22 the sample (e.g., liner notes, discographies).

23 e. I worked with the Fund’s staff to compile the results of this exercise
24 into a spreadsheet designed to allow a comparison between: (i) the
25 royalties that were actually allocated with the use of session report data
26 in connection with each of the 50 Covered Recordings in the sample;
27 and (ii) the royalty allocations that would have occurred based on the
28 non-featured performers identified by Fund researchers as having

1 appeared on each of the Covered Recordings based on sources other
2 than session reports (e.g., liner notes, discographies). The final version
3 of this spreadsheet is attached hereto as **Exhibit 42**. This spreadsheet
4 appears in the first tab of the Microsoft Excel spreadsheet produced in
5 this action with Bates label DEFS_00042027.

6 9. As shown in Exhibit 42, when the Fund's researchers attempted to
7 locate the non-featured performers on each of these 50 song titles without the aid
8 of session report data from the Unions, the results they found were inaccurate with
9 respect to 30 of the 50 song titles in the sample. In other words, the results of the
10 Fund's research efforts were incorrect 60% of the time when researchers lacked
11 session report data from the Unions and were forced to rely only on public sources
12 of information to identify the non-featured performers who appeared on song titles.

13 10. The rate of inaccuracy demonstrated in the above-described exercise—
14 were it to take place in the actual course of the Fund's administration—would result
15 in the widespread misallocation of royalties to non-featured performers. This
16 misallocation would pose grave administrative difficulties to the Fund and would
17 seriously compromise the Fund's mission of accurately allocating royalties to the
18 correct non-featured performers who appeared on Covered Recordings.

19 11. The misallocation of royalties demonstrated by the above-described
20 exercise can occur in different ways. Misallocations may occur if too few non-
21 featured performers are identified on a Covered Recording than actually performed
22 on the recording (i.e., performers who appeared on the recording are missing from
23 the credits information located by researchers). Misallocations can also occur
24 where too many participants are credited on a Covered Recording than actually
25 performed on the recording (i.e., performers who did not actually appear on the
26 recording are credited on the recording).

27 12. For an example of fewer participants being paid than actually
28 performed on the relevant song title, consider the example of the song "My Heart

1 Will Go On” by Celine Dion. *See* Exhibit 42, Row 2. Without Union session report
2 information, the Fund’s researchers were able to identify a total of seven performers
3 credited on this title, whereas the session report revealed a total of 65 performers
4 that actually appear on the recording. In this instance, the total royalties distributed
5 on this title would have been incorrectly divided among seven performers, resulting
6 in improperly large payments to each of these seven performers, and the omission
7 of payments to 58 otherwise unidentified performers. If the Fund had incorrectly
8 distributed these larger royalty payments to just seven performers, this would have
9 resulted in a total of \$27,116.24 in misallocated royalties, which represents 45% of
10 the total royalties allocated on this title.

11 13. For an example of too many participants being paid than actually
12 performed on the relevant song title, consider the example of the song “Get Me
13 Some of That” Thomas Rhett. *See* Exhibit 42, Row 25. Without Union session
14 report information, the Fund’s researchers would need to rely on album-wide credits
15 to identify the performers on this song title, which would result in a total of 46
16 performers being credited as having performed on this song title. However, the
17 session report for this song title shows that in fact only 12 of these performers were
18 on this song title. This means that, absent Union session report information, a total
19 of 34 performers would have been incorrectly paid for a track on which they did not
20 perform, whereas the 12 performers that were actually on the track would have
21 received significantly smaller royalty payments than they should have properly
22 been allocated had the Fund had the benefit of Union session report information. In
23 this instance, the lack of session report information would have resulted in a total
24 of \$108,053.81 in misallocated royalties, which represents 83% of the total royalties
25 allocated in connection with this title.

26 14. Aside from assessing the value of session report data provided by the
27 Unions, a separate portion of the project I managed in January and February
28 analyzed the availability of information from the Unions’ respective performer

1 databases in connection with the performers identified as having performed on these
2 Covered Recordings. The results of this portion of the project are summarized in
3 the second tab of the Microsoft Excel spreadsheet produced in this action with Bates
4 label DEFS_00042027, which is attached hereto as **Exhibit 43**.

5 15. The results of this exercise show that from among the 669 non-featured
6 performers credited as having performed on the 50 Covered Recordings in the
7 sample, a total of 629 (or 94%) were located in one of the respective Union
8 performer databases, allowing the Fund access to the performers' last known
9 address and Social Security number information. Without the Unions' performer
10 database data, none of the participants had a readily-available address and Social
11 Security information accessible from public sources that would allow the Fund to
12 make a payment to the participant. Instead, outreach efforts were required to locate
13 the remaining participants' relevant information.

14 I declare under penalty of perjury under the laws of the United States of
15 America that the foregoing is true and correct.

16 Executed this 23rd day of April, 2021.

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18 Julie B. Sandell
19 Julie Sandell
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